

**House File 425 - Introduced**

HOUSE FILE 425

BY SEXTON

**A BILL FOR**

1 An Act relating to the control of effluent from animal truck  
2 wash facilities, by requiring certain permits, regulating  
3 storage and application of effluent, and making penalties  
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459A.101, Code 2015, is amended to read  
2 as follows:

3 **459A.101 Title.**

4 This chapter shall be known and may be cited as the  
5 *"Animal Agriculture Compliance Act for Open Feedlot Operations"*  
6 *Operations and Animal Truck Wash Facilities*".

7 Sec. 2. Section 459A.102, Code 2015, is amended by adding  
8 the following new subsections:

9 NEW SUBSECTION. 3A. *"Animal truck wash effluent"* means  
10 a combination of manure, washwater-induced runoff, or other  
11 runoff derived from an animal truck wash facility before its  
12 solids have been removed.

13 NEW SUBSECTION. 3B. *"Animal truck wash effluent basin"*  
14 means an impoundment which is part of an animal truck wash  
15 facility, if the primary function of the impoundment is to  
16 collect and store animal truck wash effluent. *"Animal truck  
17 wash effluent basin"* does not include a storage structure as  
18 defined in section 459.102.

19 NEW SUBSECTION. 3C. *"Animal truck wash facility"* means an  
20 operation engaged exclusively in washing single-unit trucks,  
21 truck-tractors, semitrailers, or trailers used to transport  
22 animals, if the operation stores animal truck wash effluent  
23 derived from the operation.

24 NEW SUBSECTION. 6A. *"Basin"* means any of the following:

25 a. A settled open feedlot effluent basin.

26 b. An animal truck wash effluent basin.

27 NEW SUBSECTION. 7A. *"Concentrated animal feeding operation"*  
28 means the same as defined in 40 C.F.R. §122.23.

29 NEW SUBSECTION. 11A. *"Effluent"* means open feedlot effluent  
30 or animal truck wash effluent.

31 NEW SUBSECTION. 11B. *"Federal Water Pollution Control Act"*,  
32 means the federal Water Pollution Control Act of 1972, 33  
33 U.S.C. ch. 26, as amended, and 40 C.F.R., pts. 122 and 412.

34 NEW SUBSECTION. 11C. *"Formed animal truck wash effluent  
35 basin"* means a covered or uncovered impoundment used to store

1 effluent from an animal truck wash facility, which has walls  
2 and a floor constructed of concrete, concrete block, wood,  
3 steel, or similar materials.

4 NEW SUBSECTION. 13A. "*NPDES permit*" means a permit issued  
5 by the department under the national pollutant discharge  
6 elimination system pursuant to the federal Water Pollution  
7 Control Act of 1972, 33 U.S.C. ch. 26, as amended, and 40  
8 C.F.R. pts. 122 and 412.

9 NEW SUBSECTION. 19A. "*Owner*" means a person who holds legal  
10 or equitable title to any of the following:

11 a. The property where an open feedlot operation or animal  
12 truck wash facility is located.

13 b. An open feedlot operation structure which is part of an  
14 open feedlot operation or an animal truck wash effluent basin  
15 which is part of an animal truck wash facility.

16 NEW SUBSECTION. 19B. "*Professional engineer*" means the same  
17 as defined in section 459.102.

18 NEW SUBSECTION. 23A. a. "*Solids*" means that portion of  
19 effluent that meets all of the following requirements:

20 (1) Does not flow perceptibly under pressure.

21 (2) Is not capable of being transported through a mechanical  
22 pumping device designed to move a liquid.

23 (3) The constituent molecules do not flow freely among  
24 themselves but do show the tendency to separate under stress.

25 b. "*Solids*" includes settleable solids and scraped solids.

26 NEW SUBSECTION. 25A. "*Structure*" means any of the  
27 following:

28 a. An open feedlot operation structure.

29 b. An animal truck wash effluent basin.

30 NEW SUBSECTION. 25B. "*Unformed animal truck wash effluent*  
31 *basin*" means a covered or uncovered impoundment used to store  
32 animal truck wash effluent, other than a formed animal truck  
33 wash effluent basin.

34 Sec. 3. Section 459A.102, subsections 14, 16, 23, and 25,  
35 Code 2015, are amended to read as follows:

1 14. "Nutrient management plan" or "plan" means a plan which  
2 provides for the management of open feedlot effluent, or animal  
3 truck wash effluent, including the application of effluent as  
4 provided in section 459A.208.

5 16. "Open feedlot effluent" ~~or "effluent"~~ means a  
6 combination of manure, precipitation-induced runoff, or other  
7 runoff from an open feedlot before its settleable solids have  
8 been removed.

9 23. "Settled open feedlot effluent basin" ~~or "basin"~~ means  
10 an impoundment which is part of an open feedlot operation, if  
11 the primary function of the impoundment is to collect and store  
12 settled open feedlot effluent.

13 25. "Stockpile" means to store solids from ~~an~~ any of the  
14 following:

15 a. An open feedlot operation outside of an open feedlot  
16 operation structure, or outside of an area that drains to an  
17 open feedlot operation structure.

18 b. An animal truck wash facility, outside an animal truck  
19 wash facility, or outside an area that drains to an animal  
20 truck wash facility.

21 Sec. 4. Section 459A.102, subsections 19 and 21, Code 2015,  
22 are amended by striking the subsections.

23 Sec. 5. Section 459A.103, subsection 3, paragraph b, Code  
24 2015, is amended to read as follows:

25 b. Notwithstanding paragraph "a", only for purposes of  
26 determining whether an open feedlot operation must obtain ~~an~~  
27 operating a NPDES permit, the animal unit capacity of the  
28 animal feeding operation includes the animal unit capacities  
29 of both the open feedlot operation and the confinement feeding  
30 operation if the animals in the open feedlot operation and the  
31 confinement feeding operation are all in the same category or  
32 type of animals as used in the definitions of large and medium  
33 concentrated animal feeding operations in 40 C.F.R. pt. 122.  
34 In all other respects the confinement feeding operation shall  
35 be governed by chapter 459 and the open feedlot operation shall

1 be governed by this chapter.

2 Sec. 6. Section 459A.103, subsection 6, Code 2015, is  
3 amended to read as follows:

4 6. The regulation of ~~open feedlot~~ effluent under this  
5 chapter shall be construed as also regulating ~~settled open~~  
6 ~~feedlot~~ effluent and solids.

7 Sec. 7. Section 459A.104, Code 2015, is amended to read as  
8 follows:

9 **459A.104 General authority — commission and department —**  
10 **purpose — compliance.**

11 1. The commission shall establish by rule adopted pursuant  
12 to chapter 17A, requirements relating to the construction,  
13 including expansion, or operation of ~~open~~ all of the following:

14 a. Open feedlot operations, including any related open  
15 feedlot operation structures.

16 b. Animal truck wash facilities, including any related  
17 animal truck wash effluent basins.

18 2. Any provision referring generally to compliance with  
19 the requirements of this chapter as applied to open feedlot  
20 operations or animal truck wash facilities also includes  
21 compliance with requirements in rules adopted by the commission  
22 pursuant to this section, orders issued by the department as  
23 authorized under this chapter, and the terms and conditions  
24 applicable to licenses, certifications, permits, or nutrient  
25 management plans required under this chapter.

26 3. a. The purpose of this chapter is to provide  
27 requirements relating to the construction, including the  
28 expansion, and operation of ~~open~~ all of the following:

29 (1) Open feedlot operations, and the control of open feedlot  
30 effluent, which.

31 (2) Animal truck wash facilities, and the control of animal  
32 truck wash effluent.

33 b. The provisions of this chapter shall be construed to  
34 supplement applicable provisions of chapter 459. If there is  
35 a conflict between the provisions of this chapter and chapter

1 459, the provisions of this chapter shall prevail.

2 Sec. 8. Section 459A.105, Code 2015, is amended to read as  
3 follows:

4 **459A.105 Exception to regulation.**

5 1. Except as provided in subsection 2, the requirements  
6 of this chapter which regulate open feedlot operations,  
7 including rules adopted by the ~~department~~ commission pursuant  
8 to section 459A.104, shall not apply to research activities and  
9 experiments performed under the authority and regulations of a  
10 research college, if the research activities and experiments  
11 relate to an open feedlot operation structure or the disposal  
12 or treatment of effluent originating from an open feedlot  
13 operation.

14 2. The requirements of section 459A.410, including rules  
15 adopted by the ~~department~~ commission under that section, apply  
16 to research activities and experiments performed under the  
17 authority and regulations of a research college.

18 Sec. 9. Section 459A.201, subsection 3, paragraph b, Code  
19 2015, is amended to read as follows:

20 *b.* (1) A nutrient management plan as provided in section  
21 459A.208 shall be approved or disapproved as part of a  
22 construction permit application pursuant to section 459A.205.

23 (2) ~~If~~ For an open feedlot operation, if the nutrient  
24 management plan is not part of an application for a  
25 construction permit, the nutrient management plan shall be  
26 approved or disapproved within sixty days from the date that  
27 the department receives the nutrient management plan.

28 Sec. 10. Section 459A.205, subsection 1, Code 2015, is  
29 amended to read as follows:

30 1. *a.* The department shall approve or disapprove  
31 applications for permits for the construction, including the  
32 expansion, of ~~settled~~ the following structures:

33 (1) Settled open feedlot effluent basins and alternative  
34 technology systems, which are part of open feedlot operations  
35 as provided in this chapter.

1     (2) Animal truck wash effluent basins which are part of  
2 animal truck wash facilities as provided in this chapter.

3     b. The department's decision to approve or disapprove  
4 a permit for the construction of a ~~basin or alternative~~  
5 ~~system~~ structure described in paragraph "a" shall be based on  
6 whether the application is submitted according to procedures  
7 and standards required by this chapter. A person shall not  
8 begin construction of a ~~basin or alternative system requiring~~  
9 ~~a permit~~ such a structure under this section, unless the  
10 department first approves the person's application and issues  
11 to the person a construction permit.

12     Sec. 11. Section 459A.205, subsection 3, Code 2015, is  
13 amended to read as follows:

14     3. ~~The department shall not approve an~~ An application for a  
15 construction permit ~~unless the applicant submits~~ shall include  
16 all of the following:

17     a. ~~For an open feedlot operation submitting an application~~  
18 ~~for a construction permit on or after April 30, 2007, a~~ A  
19 nutrient management plan as provided in section 459A.208.

20     b. An engineering report, construction plans, and  
21 specifications prepared by a ~~licensed~~ professional engineer or  
22 the natural resources conservation service of the United States  
23 department of agriculture certifying.

24     (1) For an open feedlot operation, the professional  
25 engineer must certify that the construction of the settled  
26 open feedlot effluent basin or alternative technology system  
27 complies with the construction design standards required in  
28 this chapter.

29     (2) For an animal truck wash facility, the professional  
30 engineer must certify that the construction of the animal  
31 truck wash effluent basin complies with the construction  
32 design standards required in this chapter. However, an animal  
33 truck wash facility electing to use a formed animal truck wash  
34 effluent basin, in lieu of an engineering report, may submit a  
35 construction design statement that meets the requirements of

1 sections 459A.306 and 459A.307.

2 Sec. 12. Section 459A.205, subsection 4, unnumbered  
3 paragraph 1, Code 2015, is amended to read as follows:

4 ~~An~~ For an open feedlot operation, ~~must be issued a~~  
5 construction permit must be issued prior to any of the  
6 following:

7 Sec. 13. Section 459A.205, subsection 4, paragraph a, Code  
8 2015, is amended to read as follows:

9 a. The construction, including expansion, of a settled open  
10 feedlot effluent basin or alternative technology system if the  
11 open feedlot operation is required to be issued ~~an operating a~~  
12 NPDES permit.

13 Sec. 14. Section 459A.205, subsection 4, paragraph b,  
14 unnumbered paragraph 1, Code 2015, is amended to read as  
15 follows:

16 ~~The~~ When the department has previously issued the open  
17 feedlot operation a construction permit and any of the  
18 following applies:

19 Sec. 15. Section 459A.205, Code 2015, is amended by adding  
20 the following new subsection:

21 NEW SUBSECTION. 4A. For an animal truck wash facility,  
22 a construction permit must be issued prior to any of the  
23 following:

24 a. The construction, including expansion, of an animal truck  
25 wash effluent basin.

26 b. When the department has previously issued the animal  
27 truck wash facility a construction permit and the volume of  
28 the animal truck wash effluent would be more than the volume  
29 approved by the department in the previous construction permit.

30 Sec. 16. Section 459A.205, subsection 6, unnumbered  
31 paragraph 1, Code 2015, is amended to read as follows:

32 ~~The~~ For an open feedlot operation, ~~the~~ application for ~~the~~ a  
33 construction permit shall include all of the following:

34 Sec. 17. Section 459A.205, subsection 6, paragraph f, Code  
35 2015, is amended to read as follows:

1     *f.* An engineering report, construction plans, and  
2 specifications prepared by a ~~licensed~~ professional engineer or  
3 by the United States natural resources conservation service,  
4 for the settled open feedlot operation effluent basin or  
5 alternative technology system.

6     Sec. 18. Section 459A.205, subsection 6, paragraph h,  
7 subparagraph (3), Code 2015, is amended to read as follows:

8     (3) A public water supply system as defined in section  
9 455B.171 or a drinking water well which is located within a  
10 distance from the open feedlot operation as prescribed by rules  
11 adopted by the ~~department~~ commission.

12     Sec. 19. Section 459A.205, subsection 6, paragraph i,  
13 subparagraphs (1) and (3), Code 2015, are amended to read as  
14 follows:

15     (1) Information showing that the proposed open feedlot  
16 operation meets criteria for siting as established by rules  
17 adopted by the ~~department~~ commission. However, if the  
18 site does not meet the criteria, the information shall show  
19 substantially equivalent alternatives to meeting such criteria.

20     (3) A conceptual design of the proposed alternative  
21 technology system, as developed by a ~~licensed~~ professional  
22 engineer.

23     Sec. 20. Section 459A.205, Code 2015, is amended by adding  
24 the following new subsection:

25     NEW SUBSECTION. 6A. For an animal truck wash facility, the  
26 application for the construction permit shall include all of  
27 the following:

28     *a.* The name of the owner of the animal truck wash facility  
29 and the name of the animal truck wash facility, including a  
30 mailing address and telephone number for the owner and the  
31 animal truck wash facility.

32     *b.* The name of the contact person for the animal truck wash  
33 facility, including the person's mailing address and telephone  
34 number.

35     *c.* The location of the animal truck wash facility.

1     *d.* A statement providing that the application is for any of  
2 the following:

3       (1) The construction or expansion of an animal truck wash  
4 effluent basin for an existing animal truck wash facility which  
5 is not expanding.

6       (2) The construction or expansion of an animal truck wash  
7 effluent basin for an existing animal truck wash facility which  
8 is expanding.

9       (3) The construction of an animal truck wash effluent basin  
10 for a proposed new animal truck wash facility.

11     *e.* An engineering report, construction plans, and  
12 specifications prepared by a professional engineer or by the  
13 United States natural resources conservation service, for the  
14 animal truck effluent basin.

15       (1) The engineering report must demonstrate that the  
16 storage capacity of its animal truck wash effluent basin is  
17 equal to or greater than the amount of effluent to be stored  
18 for any six-month period, in addition to two feet of freeboard.

19       (2) If an animal truck wash effluent basin is to be  
20 constructed on karst terrain, the engineering report must  
21 establish that the construction complies with the requirements  
22 of section 459A.404.

23     *f.* A soils and hydrogeologic report of the site, as required  
24 in section 459A.206.

25     *g.* Information, including but not limited to maps, drawings,  
26 and aerial photos that clearly show the location of the animal  
27 truck wash facility and all animal truck wash effluent basins.

28     Sec. 21. Section 459A.205, subsection 7, paragraph a,  
29 unnumbered paragraph 1, Code 2015, is amended to read as  
30 follows:

31       Except as provided in paragraph "b", a construction permit  
32 for an open feedlot operation or animal truck wash facility  
33 expires as follows:

34     Sec. 22. Section 459A.205, subsection 8, Code 2015, is  
35 amended to read as follows:

1 8. The department may suspend or revoke a construction  
2 permit, modify the terms or conditions of a construction  
3 permit, or disapprove a request to extend the time to begin  
4 or complete construction as provided in this section, if it  
5 determines that the operation of the open feedlot operation or  
6 animal truck wash facility constitutes a clear, present, and  
7 impending danger to public health or the environment.

8 Sec. 23. Section 459A.206, subsection 1, Code 2015, is  
9 amended to read as follows:

10 1. A settled open feedlot effluent basin or an animal truck  
11 wash effluent basin required to be constructed pursuant to a  
12 construction permit issued pursuant to section 459A.205 shall  
13 meet design standards as required by a soils and hydrogeologic  
14 report.

15 Sec. 24. Section 459A.207, subsection 1, unnumbered  
16 paragraph 1, Code 2015, is amended to read as follows:

17 The owner of an open feedlot operation who is issued a  
18 construction permit for a settled open feedlot effluent basin  
19 or the owner of an animal truck wash facility who is issued a  
20 construction permit for an animal truck wash effluent basin as  
21 provided in section 459A.205 ~~after July 1, 2005,~~ shall submit  
22 to the department a construction certification from a ~~licensed~~  
23 professional engineer certifying all of the following:

24 Sec. 25. Section 459A.207, subsection 1, paragraph b, Code  
25 2015, is amended to read as follows:

26 *b.* The basin was inspected by the ~~licensed~~ professional  
27 engineer after completion of construction and before  
28 commencement of operation.

29 Sec. 26. Section 459A.208, subsections 1, 3, and 4, Code  
30 2015, are amended to read as follows:

31 1. The following persons shall develop and implement a  
32 nutrient management plan meeting the requirements of this  
33 section:

34 *a.* The owner of an open feedlot operation which has an  
35 animal unit capacity of one thousand animal units or more or

1 which is required to be issued ~~an operating~~ a NPDES permit  
2 ~~shall develop and implement a nutrient management plan meeting~~  
3 ~~the requirements of this section.~~

4 b. The owner of an animal truck wash facility which has an  
5 animal truck wash effluent basin.

6 3. a. A person shall not remove open feedlot effluent from  
7 an open feedlot operation structure ~~which is part of an open~~  
8 ~~feedlot operation~~ or animal truck wash effluent from an animal  
9 truck wash effluent basin for which a nutrient management plan  
10 is required under this section, unless the department approves  
11 a nutrient management plan as required in this section. ~~The~~  
12 ~~department~~

13 b. Notwithstanding paragraph "a", the commission may adopt  
14 rules allowing a person to remove ~~open feedlot~~ effluent from an  
15 open feedlot operation structure or animal truck wash effluent  
16 basin until the nutrient management plan is approved or  
17 disapproved by the department according to terms and conditions  
18 required by rules adopted by the ~~department~~ commission.

19 4. The department shall not approve an application for a  
20 permit to construct a settled open feedlot effluent basin or  
21 animal truck wash effluent basin, unless the owner of the open  
22 feedlot operation or animal truck wash facility, applying for  
23 approval submits a nutrient management plan together with the  
24 application for the construction permit as provided in section  
25 459A.205. The owner of the open feedlot operation shall also  
26 submit proof that the owner has published a notice for public  
27 comment as provided in this section. The department shall  
28 approve or disapprove the nutrient management plan as provided  
29 in section 459A.201.

30 Sec. 27. Section 459A.208, subsection 5, unnumbered  
31 paragraph 1, Code 2015, is amended to read as follows:

32 ~~Prior~~ For an animal feeding operation, prior to approving  
33 or disapproving a nutrient management plan as required in this  
34 section, the department may receive comments exclusively to  
35 determine whether the nutrient management plan is submitted

1 according to procedures required by the department and that the  
2 nutrient management plan complies with the provisions of this  
3 chapter.

4 Sec. 28. Section 459A.208, subsections 6, 7, and 9, Code  
5 2015, are amended to read as follows:

6 6. A nutrient management plan must be authenticated by the  
7 owner of the open feedlot operation or the owner of the animal  
8 truck wash facility as required by the department in accordance  
9 with section 459A.201.

10 7. A nutrient management plan shall include all of the  
11 following:

12 a. Restrictions on the application of open feedlot effluent  
13 or animal truck wash effluent based on all of the following:

14 (1) Calculations necessary to determine the land area  
15 required for the application of ~~open feedlot~~ the effluent from  
16 ~~an open feedlot operation~~ based on nitrogen use levels in order  
17 to obtain optimum crop yields according to a crop schedule  
18 specified in the nutrient management plan, and according to  
19 requirements adopted by the department.

20 (2) A phosphorus index established pursuant to section  
21 459.312.

22 b. Information relating to the application of the ~~open~~  
23 ~~feedlot~~ effluent, including all of the following:

24 (1) Nutrient ~~levels~~ concentrations of the ~~open feedlot~~  
25 effluent.

26 (2) Application methods, the timing of the application, and  
27 the location of the land where the application occurs.

28 c. If the application is on land other than land owned or  
29 rented for crop production by the owner ~~of the open feedlot~~  
30 ~~operation~~, the plan shall include a copy of each written  
31 agreement executed by the owner ~~of the open feedlot operation~~  
32 and the landowner or the person renting the land for crop  
33 production where the ~~open feedlot~~ effluent may be applied.

34 d. An estimate of the ~~open feedlot~~ effluent volume or weight  
35 produced by the open feedlot operation or animal truck wash

1 facility.

2 e. Information which shows all of the following:

3 (1) There is adequate storage for open feedlot effluent  
4 or animal truck wash effluent, including procedures to ensure  
5 proper operation and maintenance of ~~the storage structures an~~  
6 open feedlot operation structure or animal truck wash effluent  
7 basin.

8 (2) ~~The~~ For an animal feeding operation, all of the  
9 following:

10 (a) The proper management of animal mortalities to ensure  
11 that animals are not disposed of in an open feedlot operation  
12 structure or a treatment system that is not specifically  
13 designed to treat animal mortalities.

14 (b) Animals kept in the open feedlot operation do not have  
15 direct contact with any waters of the United States.

16 (3) (a) Surface drainage prior to contact with an open  
17 feedlot structure is diverted, as appropriate, from the open  
18 feedlot operation.

19 (b) Surface drainage prior to contact with an animal truck  
20 wash facility is diverted, as appropriate, from the animal  
21 truck wash facility.

22 (4) ~~Animals kept in the open feedlot operation do not have~~  
23 ~~direct contact with any waters of the United States.~~

24 (5) ~~Chemicals or other contaminants handled on-site are~~  
25 ~~not disposed of in an open feedlot operation structure, an~~  
26 ~~animal truck wash facility, or a treatment system that is not~~  
27 ~~specifically designed to treat such chemicals or contaminants.~~

28 9. The owner of an open feedlot operation or animal truck  
29 wash facility who is required to develop and implement a  
30 nutrient management plan shall maintain a current nutrient  
31 management plan and maintain records sufficient to demonstrate  
32 compliance with the nutrient management plan.

33 Sec. 29. Section 459A.301, Code 2015, is amended to read as  
34 follows:

35 **459A.301 Settled open feedlot effluent basins and animal**

1 truck wash effluent basins — construction design standards —  
2 rules.

3 If the department requires that a settled open feedlot  
4 effluent basin or animal truck wash effluent basin be  
5 constructed according to construction design standards,  
6 regardless of whether the department requires the owner  
7 to be issued a construction permit under section 459A.205,  
8 any construction design standards for the basin shall  
9 be established by rules as provided in chapter 17A that  
10 exclusively account for special design characteristics of open  
11 feedlot operations and related basins or animal truck wash  
12 facilities and related basins, including but not limited to  
13 the dilute composition of settled ~~open feedlot~~ effluent as  
14 collected and stored in the basins.

15 Sec. 30. Section 459A.302, unnumbered paragraph 1, Code  
16 2015, is amended to read as follows:

17 A settled open feedlot effluent basin or an animal truck  
18 wash effluent basin required to be constructed pursuant to a  
19 construction permit issued pursuant to section 459A.205 shall  
20 meet all of the following requirements:

21 Sec. 31. Section 459A.302, subsection 1, paragraph a,  
22 unnumbered paragraph 1, Code 2015, is amended to read as  
23 follows:

24 Prior to constructing a settled open feedlot effluent basin  
25 or an animal truck wash effluent basin, the site for the basin  
26 shall be investigated for a drainage tile line by the owner  
27 of the open feedlot operation or animal truck wash facility.  
28 The investigation shall be made by digging a core trench to  
29 a depth of at least six feet deep from ground level at the  
30 projected center of the berm of the basin. If a drainage tile  
31 line is discovered, one of the following solutions shall be  
32 implemented:

33 Sec. 32. Section 459A.302, subsections 2, 3, 4, and 5, Code  
34 2015, are amended to read as follows:

35 2. a. The settled open feedlot effluent basin or an animal

1 truck wash effluent basin shall be constructed with a minimum  
2 separation of two feet between the top of the liner of the  
3 basin and the seasonal high-water table.

4     *b.* If a drainage tile line around the perimeter of the basin  
5 is installed a minimum of two feet below the top of the basin  
6 liner to artificially lower the seasonal high-water table, the  
7 top of the basin's liner may be a maximum of four feet below  
8 the seasonal high-water table. The seasonal high-water table  
9 may be artificially lowered by gravity flow tile lines or other  
10 similar system. However, the following shall apply:

11     (1) Except as provided in subparagraph (2), an open feedlot  
12 operation or animal truck wash facility shall not use a  
13 nongravity mechanical system that uses pumping equipment.

14     (2) If the open feedlot operation was constructed before  
15 July 1, 2005, the operation may continue to use its existing  
16 nongravity mechanical system that uses pumping equipment or  
17 it may construct a new nongravity mechanical system that uses  
18 pumping equipment. However, an open feedlot operation that  
19 expands the area of its open feedlot on or after April 1, 2011,  
20 shall not use a nongravity mechanical system that uses pumping  
21 equipment.

22     3. Drainage tile lines may be installed to artificially  
23 lower the seasonal high-water table at a settled open feedlot  
24 effluent basin or animal truck wash effluent basin, if all of  
25 the following conditions are satisfied:

26     *a.* A device to allow monitoring of the water in the drainage  
27 tile lines and a device to allow shutoff of the flow in the  
28 drainage tile lines are installed, if the drainage tile lines  
29 do not have a surface outlet accessible on the property where  
30 the ~~settled open feedlot effluent~~ basin is located.

31     *b.* Drainage tile lines are installed horizontally at least  
32 twenty-five feet away from the ~~settled open feedlot effluent~~  
33 basin. Drainage tile lines shall be placed in a vertical  
34 trench and encased in granular material which extends upward to  
35 the level of the seasonal high-water table.

1 4. A settled open feedlot effluent basin or animal truck  
2 wash effluent basin shall be constructed with at least four  
3 feet between the bottom of the basin and a bedrock formation.

4 5. A settled open feedlot effluent basin or animal truck  
5 wash effluent basin constructed on a floodplain or within  
6 a floodway of a river or stream shall comply with rules ~~of~~  
7 adopted by the department commission.

8 Sec. 33. Section 459A.302, subsection 6, unnumbered  
9 paragraph 1, Code 2015, is amended to read as follows:

10 The liner of a settled open feedlot effluent basin or  
11 animal truck wash effluent basin shall comply with all of the  
12 following:

13 Sec. 34. Section 459A.302, subsection 7, Code 2015, is  
14 amended to read as follows:

15 7. The owner of an open feedlot operation using a settled  
16 open feedlot effluent basin or animal truck wash facility  
17 shall inspect the berms of the basin at least semiannually for  
18 evidence of erosion. If the inspection reveals erosion which  
19 may impact the basin's structural stability or the integrity of  
20 the basin's liner, the owner shall repair the berms.

21 Sec. 35. Section 459A.303, subsection 2, Code 2015, is  
22 amended to read as follows:

23 2. The ~~department~~ commission shall adopt rules establishing  
24 requirements for the construction and operation of alternative  
25 technology systems.

26 Sec. 36. Section 459A.401, subsection 2, Code 2015, is  
27 amended by striking the subsection and inserting in lieu  
28 thereof the following:

29 2. Notwithstanding subsection 1, an open feedlot operation  
30 that is a concentrated animal feeding operation shall comply  
31 with applicable NPDES permit requirements as provided in the  
32 federal Water Pollution Control Act, pursuant to rules that  
33 shall be adopted by the commission. Any rules adopted pursuant  
34 to this subsection shall be no more stringent than requirements  
35 under the federal Act.

1     Sec. 37. Section 459A.401, Code 2015, is amended by adding  
2 the following new subsection:

3     NEW SUBSECTION. 2A. If the open feedlot operation is  
4 designed, constructed, and operated in accordance with the  
5 requirements of an open feedlot effluent control system as  
6 provided in rules adopted by the commission, the operation  
7 shall be deemed to be in compliance with this section, unless a  
8 discharge from the operation causes a violation of state water  
9 quality standards as provided in chapter 455B, division III.

10    Sec. 38. Section 459A.401, subsection 3, paragraph a, Code  
11 2015, is amended to read as follows:

12    a. (1) The open feedlot operation shall not discharge  
13 open feedlot effluent from an open feedlot operation structure  
14 into any waters of the United States, unless the discharge is  
15 pursuant to ~~an operating~~ a NPDES permit.

16    (2) The open feedlot operation shall not be required to be  
17 issued ~~an operating~~ a NPDES permit if the operation does not  
18 discharge open feedlot effluent into any waters of the United  
19 States.

20    Sec. 39. NEW SECTION. **459A.404 Animal truck wash facility**  
21 **— construction regulations.**

22    1. a. An animal truck wash effluent basin shall not  
23 be constructed, including expanded, within one thousand  
24 two hundred fifty feet from a residence not owned by the  
25 titleholder of the animal truck wash facility, a commercial  
26 enterprise, a bona fide religious institution, an educational  
27 institution, or a public use area, as those terms are defined  
28 in section 459.102, and as provided in rules adopted by the  
29 commission pursuant to section 459.103, and as provided in  
30 rules adopted by the commission pursuant to section 459A.104.

31    b. An animal truck wash effluent basin shall not be  
32 constructed or expanded within one hundred feet from a public  
33 thoroughfare as defined in section 459.102.

34    c. Paragraph "a" does not apply if a residence, educational  
35 institution, commercial enterprise, or bona fide religious

1 institution was constructed or expanded, or if the boundaries  
2 of the public use area were expanded, after the date that the  
3 animal truck wash facility was established. The date the  
4 animal truck wash facility was established is the date on which  
5 the animal truck wash facility commenced operating. A change  
6 in ownership or expansion of the animal truck wash facility  
7 shall not change the established date of operation.

8 *d.* Paragraph "a" or "b" does not apply if the titleholder of  
9 the land benefiting from the separation distance requirement,  
10 including a person so authorized by the titleholder, executes  
11 a written waiver with the titleholder of the land where the  
12 animal truck wash effluent basin is located. The basin shall  
13 be constructed or expanded under such terms and conditions that  
14 the parties negotiate. The state or a political subdivision  
15 constructing or maintaining the public thoroughfare benefiting  
16 from the separation distance requirement may execute a written  
17 waiver with the titleholder of the land where the basin  
18 is located. The animal truck wash effluent basin shall be  
19 constructed or expanded under such terms and conditions that  
20 the parties negotiate.

21 *e.* An unformed animal truck wash effluent basin shall not be  
22 constructed or expanded within the following minimum separation  
23 distances from any of the following:

24 (1) One thousand feet from a public shallow well.

25 (2) Four hundred feet from a public deep well.

26 (3) Four hundred feet from a private well.

27 2. *a.* Any separation distance required for a confinement  
28 feeding operation structure and a location or object specified  
29 in section 459.310, subsection 1, shall also apply to an animal  
30 truck wash effluent basin and that same location or object.

31 *b.* Any requirement, qualification, or exception that  
32 applies to a separation distance required for a confinement  
33 feeding operation structure and a location or object specified  
34 in section 459.310, subsection 1, shall also apply to the  
35 separation distance required for an animal truck wash effluent

1 basin and that same location or object.

2 3. An animal truck wash effluent basin shall not be  
3 constructed, including expanded, on land that is part of a  
4 one hundred year floodplain as designated by rules adopted  
5 by the commission pursuant to section 459A.104. The rules  
6 shall correspond to rules adopted pursuant to section 459.310,  
7 subsection 2.

8 4. A person shall not construct or expand an unformed animal  
9 truck wash effluent basin within an agricultural drainage well  
10 area as provided in section 460.205.

11 5. A person shall not construct an unformed animal truck  
12 wash effluent basin on karst terrain or on an area that drains  
13 into a known sinkhole. However, a person may construct an  
14 animal truck wash effluent basin if there is a twenty-five  
15 foot vertical separation distance between the bottom of the  
16 basin and underlying limestone, dolomite, or other soluble  
17 rock as documented in the engineering report submitted to the  
18 department pursuant to section 459A.205.

19 Sec. 40. Section 459A.410, Code 2015, is amended to read as  
20 follows:

21 **459A.410 Effluent application requirements.**

22 1. Open feedlot effluent or animal truck wash effluent  
23 shall be applied in a manner which does not cause surface water  
24 or groundwater pollution. Application in accordance with  
25 the provisions of state law, including this chapter, rules  
26 adopted pursuant to the provisions of state law, including this  
27 chapter, and guidelines adopted pursuant to this chapter, shall  
28 be deemed as compliance with this section.

29 2. The commission shall adopt rules establishing  
30 requirements for the application of animal truck wash effluent,  
31 including minimum separation distances between locations  
32 or objects identified in such rules, and requirements for  
33 application rates.

34 Sec. 41. Section 459A.411, Code 2015, is amended to read as  
35 follows:



1 CONSTRUCTION STANDARDS. The bill establishes construction  
2 design standards for basins, requires separation distances  
3 between a basin and certain locations or objects, including  
4 residences, commercial enterprises, bona fide religious  
5 institutions, educational institutions, public use areas,  
6 public thoroughfares, surface intakes of agricultural drainage  
7 wells, wellheads, cisterns of agricultural drainage wells,  
8 known sinkholes, lakes, rivers, reservoirs, creeks, streams,  
9 ditches, and wells. The bill restricts basins from being  
10 constructed on karst terrain based on requirements in Code  
11 chapter 459 regulating confinement feeding operations (Code  
12 section 459A.404). The bill also requires special provisions  
13 for tile lines, and restricts construction within a distance  
14 from bedrock and on floodplains (Code section 459A.302).

15 OPERATING PERMITS FOR OPEN FEEDLOTS. The bill eliminates  
16 a provision requiring an open feedlot to operate pursuant to  
17 an operating permit issued by the department (Code section  
18 459A.401) so long as the operation obtains a so-called  
19 NPDES permit under the federal national pollutant discharge  
20 elimination system program.

21 STOCKPILING AND APPLICATION REQUIREMENTS. The bill places  
22 restrictions upon the stockpiling of solids from effluent (Code  
23 section 459A.403) and the land application of effluent. Such  
24 application cannot cause surface water or groundwater pollution  
25 (Code section 459A.410). The bill requires the department to  
26 establish requirements for application of effluent including by  
27 establishing separation distances required between the site of  
28 application and locations and objects identified by the rules.

29 DISCONTINUANCE. The owner of a facility must remove  
30 effluent after the operation of the facility is discontinued  
31 (Code section 459A.411).

32 ENFORCEMENT. DNR and the attorney general are responsible  
33 for enforcing the provisions of the bill (Code section  
34 459A.501).

35 PENALTIES. A person who is in violation of the

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1 prohibition would be subject to a civil penalty, that may be  
2 administratively assessed by the department, in an amount of  
3 not more than \$10,000 (Code sections 459A.502 and 455B.109), or  
4 judicially assessed for an amount not more than \$5,000 per each  
5 day of the violation (Code sections 459A.502 and 455B.191).  
6 Collected moneys would be deposited into the watershed  
7 improvement fund (Code sections 459A.502 and 466A.2).